

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MICHAEL E. HARRIS,

Petitioner,

vs.

BRIAN GAGE,

Respondent.

8:16CV442

**MEMORANDUM
AND ORDER**

This matter is before the court on Petitioner’s “Second Motion for Leave to Amend” his habeas petition. ([Filing No. 18](#).) His motion is denied. In its previous order, the court gave Petitioner 60 days, or until May 9, 2017, to file an amended petition that clearly presents all of his claims for relief. ([Filing No. 17](#).) The court warned Petitioner that “the amended petition will supersede, not supplement, his initial habeas petition. Failure to file an amended petition within the time set by the court will result in dismissal of this matter without further notice to Petitioner.” (*Id.*) A pending postconviction motion in state district court ([Filing No. 18 at CM/ECF p. 3](#)) does not prevent Petitioner from clearly setting forth all of his claims in an amended petition.

Petitioner is not prevented from filing a future motion to stay. The court notes, however, that it cannot adequately consider such a motion until Petitioner clearly sets forth all of his claims in an amended petition, the court progresses the matter, and Respondent files a response to Petitioner’s amended petition and the relevant state court records.

IT IS THEREFORE ORDERED that:

1. Petitioner’s “Second Motion for Leave to Amend” ([Filing No. 18](#)) is denied.

2. Petitioner shall file an amended petition for writ of habeas corpus **that clearly presents all of his claims for relief by May 9, 2017. Petitioner is warned that the amended petition will supersede, not supplement, his initial habeas petition. This means that failure to include any claims in the amended petition from his initial habeas petition will be deemed abandoned. Failure to file an amended petition within the time set by the court will result in dismissal of this matter without further notice to Petitioner.**

Dated this 17th day of April, 2017.

BY THE COURT:

s/ Richard G. Kopf
Senior United States District Judge